

REMARKS

Reconsideration is requested.

The Examiner is requested to acknowledge receipt and acceptance of the formal drawings filed November 18, 2003, or provide specific rejection or objection of the same.

The Examiner is requested to tick the appropriate box to confirm receipt of the certified copy of the priority document in parent application Serial No. 09/308,935 as the appropriate box was not ticked in the Office Action dated July 15, 2005. Moreover, acknowledgement of applicants claim to domestic priority is requested in the Examiner next Action.

Claims 21-37 are pending. Claims 33-35 and 37 have been withdrawn from consideration.

The Examiner's indication on page 7 that claims 26 and 29 contain allowable subject matter is acknowledged, with appreciation.

To the extent not obviated by the above amendments, the Section 102 rejection of claims 22-24, 27, 30-32 and 36 over U.S. Patent No. 5,863,757, is traversed. Reconsideration and withdrawal of the rejection are requested as the GST sequence of the cited patent does not meet the requirements of the sequence of 1 to 5 amino acid residues of the presently claimed invention. The cited patent fails to teach each and every aspect of the presently claimed invention.

Withdrawal of the Section 102 rejection of claims 22-24, 27, 30-32 and 36 over U.S. Patent No. 5,863,757 is requested.

The Section 102 rejection of claims 21, 27 and 28 over Chin-Lee Wu (May 1995, Molecular and Cellular Biology, Vol. 15, pages 2536-2546), is traversed.

Reconsideration and withdrawal of the rejection are requested in view of the following distinguishing comments.

The presently claimed invention do not read on a recited fragment of DP-1 which could include the whole of the recited DP-1 sequence, attached to a fragment of DP-2 which could include the whole of the DP-2 sequence, which appears to be the basis of the Examiner's rejection. The presently claimed invention is defined by specific sequences and additional sequences of defined length which do not read on the cited art. The Examiner is requested to contact the undersigned by telephone prior to issuing a further Action in the event the Examiner continues to believe that the claims do not define over the cited art.

Withdrawal of the Section 102 rejection of claims 21, 27 and 28 over Chin-Lee Wu is requested.

The Section 102 rejection of claim 25 over Dynlacht et al (PNAS 1994 July 5;91(14):6359-63), is believed to be obviated by the above amendments. Reconsideration and withdrawal of the rejection are requested. The Examiner is requested to contact the undersigned by telephone in the event the Examiner continues to interpret the claims as reading of longer sequences of the cited art for the purpose of conducting at least a telephonic interview to discuss the scope of the claimed invention.

The Section 112, second paragraph, rejection of claim 36 is traversed. The product of claim 36 relates to a combination of the recited components which are not necessarily mixed or otherwise provided in the form of a composition. The specification

describes the sequential administration of a cytotoxic agent and polypeptide of the invention. The claimed product includes, for example, a multi-component package containing to combination of the separately recited components which may not be defined by the separately claimed compositions. One of ordinary skill in the art will appreciate the metes and bounds of claim 36 and withdrawal of the Section 112, second paragraph, rejection is requested.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested. Rejoinder and allowance of the withdrawn method claims with the product claims from which they depend are requested. The Examiner is requested to contact the undersigned in the event anything further is required in this regard.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /B. J. Sadoff/
 B. J. Sadoff
 Reg. No. 36,663

BJS:
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100